



**LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**2004–2005–2006–2007–2008**

**MINUTES OF PROCEEDINGS**

**No. 133**

**TUESDAY, 1 APRIL 2008**

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**1** The Assembly met at 10.30 a.m., pursuant to adjournment. A quorum of Members not being present, the Speaker (Mr Berry) ordered the bells to be rung. A quorum having been formed, the Speaker took the Chair and made a formal recognition that the Assembly was meeting on the lands of the traditional owners. The Speaker asked Members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

**2 LEGAL AFFAIRS—STANDING COMMITTEE (PERFORMING THE DUTIES OF A SCRUTINY OF BILLS AND SUBORDINATE LEGISLATION COMMITTEE)—SCRUTINY REPORT 52—STATEMENT BY CHAIR**

Mr Stefaniak (Chair) presented the following report:

Legal Affairs—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report 52, dated 31 March 2008, together with the relevant minutes of proceedings—

and, by leave, made a statement in relation to the report.

**3 PLANNING AND ENVIRONMENT—STANDING COMMITTEE—INQUIRY—NAMADGI NATIONAL PARK DRAFT PLAN OF MANAGEMENT—STATEMENT BY CHAIR**

Mr Gentleman (Chair), pursuant to standing order 246A, informed the Assembly that the Standing Committee on Planning and Environment had resolved to conduct an inquiry into the Namadgi National Park Draft Plan of Management.

**4 PUBLIC ACCOUNTS—STANDING COMMITTEE—INQUIRY—AUDITOR-GENERAL'S REPORTS—STATEMENT BY CHAIR**

Dr Foskey (Chair), pursuant to standing order 246A, informed the Assembly that the Standing Committee on Public Accounts had examined the following Auditor-General's reports:

No. 9/2006—Sale of Block 8, Section 48, Fyshwick.

No. 3/2007—Collection of fees and fines.

No. 4/2007—Regulation of ACT Liquor Licences—

and had resolved to conduct an inquiry into Auditor-General's Report No. 4/2007.

## 5 REGULATORY SERVICES LEGISLATION AMENDMENT BILL 2007

The Assembly, according to order, resumed consideration at the detail stage.

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### *Detail Stage*

Remainder of Bill as a whole—

On the motion of Mr Corbell (Attorney-General), his amendment No. 1 (*see* [Schedule 1](#)) was made.

*Paper:* Mr Corbell presented a supplementary explanatory statement to the Government amendment.

Remainder of Bill, as a whole, as amended, agreed to.

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Question—That this Bill, as amended, be agreed to—put and passed.

## 6 CRIMES AMENDMENT BILL 2008

The order of the day having been read for the resumption of the debate on the question—That this Bill be agreed to in principle—

Dr Foskey, by leave, made a statement concerning the cognate debate with Private Member's business, order of the day, relating to the Crimes (Street Offences) Amendment Bill 2007.

Debate resumed.

Mr Corbell (Attorney-General), by leave, was granted an extension of time.

Question—That this Bill be agreed to in principle—put and passed.

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### *Detail Stage*

Clauses 1 to 4, by leave, taken together and agreed to.

*New clause—*

On the motion of Mr Corbell, new clause 4A (his amendment No. 1—*see* [Schedule 2](#)) was inserted in the Bill, after debate.

*Paper:* Mr Corbell presented a supplementary explanatory statement to the Government amendment.

Clauses 5 to 17, by leave, taken together and agreed to.

*Proposed new clause and Schedule—*

Mr Stefaniak, by leave, moved his amendments Nos. 1 and 2 together (*see* [Schedule 3](#)).

Debate continued.

Debate interrupted in accordance with standing order 74 and the resumption of the debate made an order of the day for a later hour this day.

**7 QUESTIONS**

Questions without notice were asked.

**8 QUESTIONS ON NOTICE NOS. 1844 AND 1874—ANSWERS—EXPLANATIONS**

Mrs Burke, pursuant to standing order 118A, asked Ms Gallagher (Minister for Health) for an explanation concerning the answers to questions on notice Nos. 1844 and 1874.

Ms Gallagher gave an explanation.

**9 QUESTION ON NOTICE NO. 1878—ANSWER—EXPLANATION**

Mrs Burke, pursuant to standing order 118A, asked Mr Hargreaves (Minister for Housing) for an explanation concerning the answer to question on notice No. 1878.

Mr Hargreaves gave an explanation.

**10 QUESTION ON NOTICE NO. 1851—ANSWER—EXPLANATION**

Mr Smyth, pursuant to standing order 118A, asked Mr Stanhope (Treasurer) for an explanation concerning the answer to question on notice No. 1851.

Mr Stanhope gave an explanation.

**11 QUESTION ON NOTICE NO. 1854—ANSWER—EXPLANATION**

Mr Pratt, pursuant to standing order 118A, asked Mr Corbell (Minister for Police and Emergency Services) for an explanation concerning the answer to question on notice No. 1854.

Mr Corbell gave an explanation.

**12 PRESENTATION OF PAPERS**

The Speaker, pursuant to standing order 191, presented the following papers:

Standing order 191—Amendments to the:

Human Rights Amendment Bill 2007, dated 13 and 14 March 2008.

Payroll Tax Amendment Bill 2007, dated 13 and 14 March 2008.

Planning and Development Legislation Amendment Bill 2008, dated 13 and 14 March 2008.

**13 PUBLIC SECTOR MANAGEMENT ACT—EXECUTIVE CONTRACTS—PAPERS AND STATEMENT BY MINISTER**

Mr Stanhope (Chief Minister) presented the following papers:

Public Sector Management Act, pursuant to sections 31A and 79—Copies of executive contracts or instruments—

Long-term contracts:

Andrew Kefford, dated 26 February 2008.

Ian Cox, dated 4 March 2008.

Megan Smithies, dated 12 December 2007.

Sarah Byrne, dated 4 March 2008.

Short-term contracts:

David Foot, dated 4 and 15 February 2008.

Gregory Jude Newton, dated 27 February 2008.

Matthew John Kelly, dated 28 February 2008—

and, by leave, made a statement in relation to the papers.

#### **14 PRESENTATION OF PAPER**

Ms Gallagher (Minister for Health) presented the following paper:

Gene Technology (GM Crop Moratorium) Act—Gene Technology Advisory Council Appointment 2007 (No. 1)—Disallowable Instrument DI2007-297—Explanatory statement.

#### **15 PUBLIC ACCOUNTS—STANDING COMMITTEE—REPORT 11—REVIEW OF AUDITOR-GENERAL'S REPORT NO. 8 OF 2004: WAITING LISTS FOR ELECTIVE SURGERY AND MEDICAL TREATMENT—GOVERNMENT RESPONSE—MOTION TO TAKE NOTE OF PAPER**

Ms Gallagher (Minister for Health) presented the following paper:

Public Accounts—Standing Committee—Report 11—*Review of Auditor-General's Report No. 8 of 2004: Waiting Lists for Elective Surgery and Medical Treatment*—Government response—

and moved—That the Assembly takes note of the paper.

Debate adjourned (Mrs Burke) and the resumption of the debate made an order of the day for the next sitting.

#### **16 CONCESSIONS PROGRAM—REVIEW—PAPERS—MOTION TO TAKE NOTE OF PAPERS**

Ms Gallagher (Minister for Disability and Community Services), pursuant to the resolution of the Assembly of 2 May 2007, as amended 6 December 2007, presented the following papers:

Concessions Program—Review—

Review conducted by the Department of Disability, Housing and Community Services, dated March 2008.

Government response, dated March 2008—

and moved—That the Assembly takes note of the papers.

Debate adjourned (Dr Foskey) and the resumption of the debate made an order of the day for the next sitting.

**17 LAND (PLANNING AND ENVIRONMENT) ACT—APPROVAL—VARIATION NO. 285 TO THE TERRITORY PLAN—BLOCK 17 SECTION 102 SYMONSTON—CHANGES TO NUZ1 BROADACRE ZONE DEVELOPMENT TABLE AND PLANNING AND ENVIRONMENT—STANDING COMMITTEE—REPORT 32—GOVERNMENT RESPONSE—PAPERS AND STATEMENT BY MINISTER—MOTION TO TAKE NOTE OF PAPER**

Mr Barr (Minister for Planning) presented the following papers:

Land (Planning and Environment) Act, pursuant to subsection 29(1)—Approval of Variation No. 285 to the Territory Plan—Block 17 Section 102 Symonston—Changes to NUZ1 Broadacre Zone Development Table, dated 25 March 2008, together with background papers, a copy of the summaries and reports, and a copy of any direction or report required.

Planning and Environment—Standing Committee—Report 32—*Variation to the Territory Plan No. 285—Block 17 Section 102 Symonston Extension of Broadacre 10E Area Specific Policy*—Government response—

and, by leave, made a statement in relation to the papers.

Mr Barr moved—That the Assembly takes note of the Government response.

Debate adjourned (Dr Foskey) and the resumption of the debate made an order of the day for the next sitting.

**18 PRESENTATION OF PAPERS**

Mr Corbell (Manager of Government Business) presented the following papers:

**Annual report**

Annual Reports (Government Agencies) Act, pursuant to section 13—Canberra Institute of Technology—Annual Report 2007, dated 26 March 2008.

**Petitions—Out of order**

Petitions which do not conform with the standing orders—

Belconnen—Translocation of kangaroos—Removal of ban—Mr Stanhope (2793 signatures).

Recycled water—

Mr Stanhope (5 signatures).

Dr Foskey (5 signatures).

**Subordinate legislation (including explanatory statements unless otherwise stated)**

Legislation Act, pursuant to section 64—

Animal Diseases Act—Animal Diseases (Exotic Disease Quarantine Area) Declaration 2008 (No. 1)—Disallowable Instrument DI2008-33 (LR, 28 February 2008).

Dangerous Substances (Explosives) Regulation—Dangerous Substances (Explosives) Importing Explosives Declaration 2008 (No. 1)—Disallowable Instrument DI2008-27 (LR, 26 February 2008).

Emergencies Act—Emergencies (Bushfire Council Members) Appointment 2008—Disallowable Instrument DI2008-25 (LR, 21 February 2008).

Long Service Leave (Building and Construction Industry) Act and Financial Management Act—

Long Service Leave (Building and Construction Industry) Governing Board Appointment 2008 (No. 1)—Disallowable Instrument DI2008-21 (LR, 15 February 2008).

Long Service Leave (Building and Construction Industry) Governing Board Appointment 2008 (No. 2)—Disallowable Instrument DI2008-22 (LR, 15 February 2008).

Long Service Leave (Building and Construction Industry) Governing Board Appointment 2008 (No. 3)—Disallowable Instrument DI2008-23 (LR, 15 February 2008).

Long Service Leave (Building and Construction Industry) Governing Board Appointment 2008 (No. 4)—Disallowable Instrument DI2008-24 (LR, 15 February 2008).

Nature Conservation Act—Nature Conservation (Species and Ecological Communities) Declaration 2008 (No. 1)—Disallowable Instrument DI2008-26 (LR, 25 February 2008).

Occupational Health and Safety Act—

Occupational Health and Safety (National Code of Practice for the Prevention of Musculoskeletal Disorders from the Performing of Manual Tasks at Work) Code of Practice 2008—Disallowable Instrument DI2008-32 (LR, 28 February 2008).

Occupational Health and Safety (National Standard for Construction Work) Code of Practice 2008—Disallowable Instrument DI2008-30 (LR, 28 February 2008).

Occupational Health and Safety (National Standard for Manual Tasks) Code of Practice 2008—Disallowable Instrument DI2008-31 (LR, 28 February 2008).

Public Health Act—Public Health (Chief Health Officer) Appointment 2008—Disallowable Instrument DI2008-16 (LR, 14 February 2008).

Public Place Names Act—Public Place Names (Macgregor) Determination 2008 (No. 1)—Disallowable Instrument DI2008-14 (LR, 14 February 2008).

Road Transport (Public Passenger Services) Regulation—Road Transport (Public Passenger Services) (Authorised Fixed Fare Hiring) Approval 2008 (No. 1)—Disallowable Instrument DI2008-29 (LR, 28 February 2008).

Territory Records Act—Territory Records (Advisory Council) Appointment 2008 (No. 1)—Disallowable Instrument DI2008-20 (LR, 14 February 2008).

University of Canberra Act—University of Canberra (Liquor) Statute 2008—Disallowable Instrument DI2008-28 (LR, 28 February 2008).

## 19 MATTER OF PUBLIC IMPORTANCE—DISCUSSION—PUBLIC EDUCATION—MANAGEMENT

The Assembly was informed that Mrs Burke, Mrs Dunne, Dr Foskey, Mr Gentleman, Ms MacDonald, Mr Mulcahy, Ms Porter, Mr Pratt, Mr Seselja (Leader of the Opposition), Mr Smyth and Mr Stefaniak had proposed that matters of public importance be submitted to the Assembly for discussion. In accordance with the provisions of standing order 79, the Speaker had determined that the matter proposed by Mr Smyth be submitted to the Assembly, namely, “The management of public education in the ACT.”.

Discussion ensued.

The time for discussion having expired—

Discussion concluded.

## 20 CRIMES AMENDMENT BILL 2008

The Assembly, according to order, resumed further consideration at the detail stage.

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### *Detail Stage*

*Proposed new clause and Schedule—*

Consideration resumed on Mr Stefaniak’s amendments Nos. 1 and 2 (*see* [Schedule 3](#))—

Debate continued.

Question—put.

The Assembly voted—

AYES, 7		NOES, 10	
Mrs Burke	Mr Smyth	Mr Barr	Mr Gentleman
Mrs Dunne	Mr Stefaniak	Mr Berry	Mr Hargreaves
Mr Mulcahy		Mr Corbell	Ms MacDonald
Mr Pratt		Dr Foskey	Ms Porter
Mr Seselja		Ms Gallagher	Mr Stanhope

And so it was negatived.

Title agreed to.

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Question—That this Bill, as amended, be agreed to—put and passed.

## 21 SUSPENSION OF STANDING ORDERS—CONSIDERATION OF PRIVATE MEMBERS’ BUSINESS

Mr Corbell (Manager of Government Business) moved—That so much of the standing orders be suspended as would prevent order of the day No. 23, Private Members’ business relating to the Crimes (Street Offences) Amendment Bill 2007, being called on forthwith.

Question—put and passed, with the concurrence of an absolute majority.

## 22 CRIMES (STREET OFFENCES) AMENDMENT BILL 2007

The order of the day having been read for the resumption of the debate on the question—That this Bill be agreed to in principle—

Question—put.

The Assembly voted—

AYES, 7		NOES, 10	
Mrs Burke	Mr Smyth	Mr Barr	Mr Gentleman
Mrs Dunne	Mr Stefaniak	Mr Berry	Mr Hargreaves
Mr Mulcahy		Mr Corbell	Ms MacDonald
Mr Pratt		Dr Foskey	Ms Porter
Mr Seselja		Ms Gallagher	Mr Stanhope

And so it was negatived.

## 23 JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL 2007 (NO. 2)

The order of the day having been read for the resumption of the debate on the question—That this Bill be agreed to in principle—

Debate resumed.

Question—That this Bill be agreed to in principle—put and passed.

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### *Detail Stage*

Bill, by leave, taken as a whole—

Mr Stefaniak moved his amendment No. 1 (*see* [Schedule 4](#)).

Debate continued.

Dr Foskey addressing the Assembly—

Debate interrupted in accordance with standing order 34 and the resumption of the debate made an order of the day for the next sitting.

## 24 ADJOURNMENT

It being 6 p.m.—The question was proposed—That the Assembly do now adjourn.

Debate ensued.

*Papers:* Mrs Burke, by leave, presented the following papers:

ACT Housing tenants—Complaints to Minister—Various papers (12).

Debate continued.

The Assembly continuing to sit until 6.30 p.m.—The Speaker adjourned the Assembly until tomorrow at 10.30 a.m.

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**MEMBERS' ATTENDANCE:** All Members were present at some time during the sitting.

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**Tom Duncan**  
Clerk of the Legislative Assembly



## SCHEDULES OF AMENDMENTS

### Schedule 1

#### **REGULATORY SERVICES LEGISLATION AMENDMENT BILL 2007**

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Amendment circulated by the Attorney-General

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**1**

**Clause 54**

**Proposed new section 70E (3A)**

**Page 23, line 20—**

*insert*

- (3A) Subsections (1) and (3) do not apply to the seizure of a computer, or data storage device, for use in carrying on a licensed dealer's business if—
- (a) the only reason for the seizure is to access data held in or accessible from the computer or device; and
  - (b) the data is accessible—
    - (i) with the occupier's consent; or
    - (ii) under section 70D (General powers on entry to premises).
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**Schedule 2****CRIMES AMENDMENT BILL 2008**

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Amendment circulated by the Attorney-General

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**1**

**Proposed new clause 4A**

**Page 5, line 3—**

*insert*

<b>4A</b>	<b>Enforcement of payment of fines etc</b>
	<b>Section 102 (4)</b>

*omit everything before paragraph (a), substitute*

- (4) The registrar may, by warrant, commit a young person to an institution or State institution in a stated State or Territory if—
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### **Schedule 3**

#### **CRIMES AMENDMENT BILL 2008**

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Amendments circulated by Mr Stefaniak

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**1**

**Proposed new clause 18**

**Page 12, line 9—**

*insert*

#### **18      New section 322**

*insert*

#### **322      Magistrates Court (Crimes Infringement Notice) Regulation 2008**

- (1) The provisions set out in the *Crimes Amendment Act 2008*, schedule 1 are taken, on the commencement of this section, to be a regulation made under this Act, section 119 (Regulations about infringement notice offences).
- (2) To remove any doubt and without limiting subsection (1), the provisions set out in the *Crimes Amendment Act 2008*, schedule 1 may be amended or repealed as if they had been made as a regulation by the Executive under this Act, section 119.
- (3) To remove any doubt, the regulation mentioned in subsection (1) is taken—
  - (a) to have been notified under the Legislation Act on the day the *Crimes Amendment Act 2008* is notified; and
  - (b) to have commenced on the commencement day; and
  - (c) not to be required to be presented to the Legislative Assembly under the Legislation Act, section 64 (1).
- (4) Subsections (1), (2) and (3) are laws to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
- (5) This section expires on the day it commences.

2  
Proposed new schedule 1  
Page 12, line 9—

*insert*

**Schedule 1            New Magistrates Court (Crimes  
Infringement Notice)  
Regulation**

(see s 18)



Australian Capital Territory

**Magistrates Court (Crimes Infringement  
Notice) Regulation 2008**

**Subordinate Law SL2008-**

made under the

**Magistrates Court Act 1930**

**1 Name of regulation**

This regulation is the *Magistrates Court (Crimes Infringement Notice) Regulation 2008*.

**2 Purpose of regulation**

The purpose of this regulation is to provide for infringement notices under the *Magistrates Court Act 1930*, part 3.8 for certain offences against the *Crimes Act 1900*.

*Note* The *Magistrates Court Act 1930*, pt 3.8 provides a system of infringement notices for offences against various Acts. The infringement notice system is intended to provide an alternative to prosecution.

**3 Notes**

A note included in this regulation is explanatory and is not part of this regulation.

*Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

**4 Administering authority**

The administering authority for an infringement notice offence against the *Crimes Act 1900* is the chief executive for the *Crimes Act 1900*.

**5 Infringement notice offences**

The *Magistrates Court Act 1930*, part 3.8 applies to an offence against a provision of the *Crimes Act 1900* mentioned in schedule 1, column 2.

**6 Infringement notice penalties**

- (1) The penalty payable by an individual for an offence against the *Crimes Act 1900*, under an infringement notice for the offence, is the amount mentioned in schedule 1, column 4 for the offence.
- (2) The cost of serving a reminder notice for an infringement notice offence against the *Crimes Act 1900* is \$34.

**7 Contents of infringement notices—identifying authorised person**

An infringement notice served on a person by an authorised person for an infringement notice offence against the *Crimes Act 1900* must identify the authorised person by—

- (a) the authorised person's full name, or surname and initials; or
- (b) any unique number given, for this regulation, to the authorised person by the administering authority.

**8 Contents of reminder notices—identifying authorised person**

A reminder notice served on a person by an authorised person for an infringement notice offence against the *Crimes Act 1900* must identify the authorised person by—

- (a) the authorised person's full name, or surname and initials; or
- (b) any unique number given, for this regulation, to the authorised person by the administering authority.

**9 Authorised people for infringement notice offences**

A police officer may serve—

- (a) an infringement notice for an infringement notice offence against the *Crimes Act 1900*; and
- (b) a reminder notice for an infringement notice offence against the *Crimes Act 1900*.

*Note* For how documents may be served, see the Legislation Act, pt 19.5.

## Schedule 1      Crimes Act 1900 infringement notice offences and penalties

(see s 5 and s 6)

<b>column 1 item</b>	<b>column 2 offence provision, and if relevant, case</b>	<b>column 3 offence penalty (\$)</b>	<b>column 4 infringement penalty (\$)</b>
1	391	1 000	200
2	392	1 000	200

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**Schedule 4****JUSTICE AND COMMUNITY SAFETY LEGISLATION  
AMENDMENT BILL 2007 (NO. 2)**

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Amendments circulated by Mr Stefaniak

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**1**  
**Schedule 1**  
**Amendment 1.21**  
**Page 10, line 11—**

*omit*

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**2**  
**Schedule 1, part 1.10**  
**Page 26, line 16—**

*omit*

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